

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL APPEAL NO.259 OF 2003

The State of Maharashtra

...Applicant.

V/s

1. Riyaz Shamsuddin Bhadgaonkar,
Age 38 years.

2. Abbas Najbuddin Budekhan,
Age 45 years.

3. Shamsuddin Hasan Bhadgaonkar,
Age 62 years.

4. Bashir Najbuddin Budekhan
Age 53 years.

5. Sou. Noorbi Riyaz Bhadgaonkar,
Age 35 years.

6. Sou. Shahnajbi Anis Bhadgaonkar,
Age 25 years.

...Respondents.

Mr. A.S. Shitole, APP for the State.

Mr. C.G. Gawanekar for the respondents.

CORAM: V. M. KANADE, J.
DATE: 27th January, 2005

P.C.:

1. Heard the learned APP for the State and the learned Counsel appearing on behalf of the respondents.

2. The State has filed this appeal against an order of acquittal passed by the Special Judge, Gadhinglaj, District Kolhapur in Special Case No.2 of 2000. By the said Judgment and Order dated 19/8/2002, the

respondents were acquitted of the offence punishable under section 7(1)(d) of the Protection of Civil Rights Act and under section 3(1)(x) of the Scheduled Caste and Scheduled Tribes (Prevention of Atrocities) Act, 1989 and under sections 143, 506 read with section 34 of the Indian Penal Code.

3. Prosecution case in brief is that the complainant P.W. 2 - Ramchandra Natlekar had purchased a plot of land from Mahamad Hasan Bhadgaonkar out of CTS No. 207. The complainant had constructed his house on the said plot. The accused claimed that the said plot of land belonged to him and civil suit was filed by the accused against the complainant. After the civil suit was decided by the Trial Court in favour of the complainant, according to the prosecution, the accused entered the said plot of land and abused the complainant and humiliated him by making reference to his caste and also threatened that he would set his house on fire. According to the prosecution, P.W. 3 - Amannulla Kadar Bhadgaonkar and two others were present when the said incident took place.

4. The learned APP has taken me through the judgment and order of the Trial Court as also notes of evidence which are filed by the respondents. I have perused

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the evidence of P.W.2 and P.W.3. It is an admitted position that there was a delay in filing the complaint. Further, it is admitted that there was enmity between the accused and the complainant and P.W. 3 - Amannulla. P.W. 3 in his cross-examination has admitted that he had no occasion to go there on the said plot i.e. CTS No.207. Considering this evidence, it is difficult to rely on the sole testimony of the complainant - P.W.2. The Trial Court, in my view, has rightly given benefit of doubt to the accused. There is no reason to interfere with the said judgment and order. Leave is refused. Appeal is accordingly dismissed.

V.M. KANADE, J.